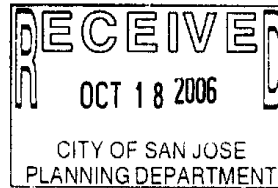




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October 18, 2006

Mayor and Council Members
City of San Jose
200 E. Santa Clara Street
San Jose, CA 95113

RE: Evergreen Development Policy
Residential Pool Allocation

Dear Hon. Mayor and Council Members:

On behalf of DAL Properties, we request that the City Council direct Planning Staff to address the concerns raised by some of the small and medium size property owners in Evergreen. We ask that the EVP policy be written in a flexible way so that these property owners have an opportunity to get allocations to develop their property. These concerns are expressed below and build on the recommendation of the Evergreen Hills Visioning Task Force to increase and improve the accessibility of pool allocations to all small and medium size parcels in Evergreen.

After developing large sites in the Evergreen area over the past twenty plus years, I have turned my attention on smaller infill properties. Working with the smaller and medium size property owners to help them realize their lifelong dreams, gives me great personnel satisfaction. It is also good business.

What is not good business is to write rules that once again lock these property owners out of a process that would keep them, and their descendants, from ever seeing their property developed. This would be unfair and inequitable.

The Policies and the Criteria for the pool allocation as currently drafted would prohibit many of these infill sites from being developed, and would exacerbate some of the hardships faced by these property owners and lifelong residents of Evergreen.

We were encouraged and applaud the Task Force's recommendation to the City Council to direct allocations to the smaller and medium sized properties. The direction of the Task Force recognizes the need for greater fairness and inclusiveness of the property owners who have historically been disenfranchised in the Evergreen development process. In keeping with this direction, I would ask that the Mayor and City Council consider the following changes to the 3rd Draft of the Evergreen Development Policy:



1. Maintain an allocation pool of 500 units at a minimum, having 25% of the pool allocated to projects of 15 units or less; and, 75% allocated to projects that are 40 units or less.
2. Smaller sized projects that are 40 units or less, that receive allocations from the Pool and that voluntarily pay their fair share of any transportation/amenities fee, should have the right to proceed immediately upon adoption of the Evergreen Development Policy to obtain the necessary entitlements, irrespective of any phasing.
3. The criteria should allow for General Plan changes as necessary. Some infill sites will need a small or modest increase in density in order to work and still be compatible with their surrounding neighborhoods.
4. Recognize in the pool criteria, that infill sites can complete neighborhoods and provide important neighborhood services and amenities that the City by itself cannot provide.
5. Should be consistent and/or reference existing General Plan Guidelines, the Guiding Principles and the City's Development Standards, and avoid language that is unclearly defined or could be taken out of context. For example: "Not create significant adverse effects upon the environment (specifically projects must not require significant grading or other alteration of the natural environment.)" (p. 24 3rd Draft) How does one define 'significant adverse effects' or significant grading or other alteration'.

I would like to point out that several of these smaller property owners have either submitted preliminary applications, or would have submitted applications sooner under existing development procedures in Evergreen. The Council resolution in 2004 effectively prohibited any GP or zoning applications while this process was underway. Had the 2004 Council resolution not been in place some of these properties may have been developed by now. These property owners should not have had to wait only to be shut out of the new Evergreen Development Policy. The EVP should benefit as many property owners as possible. Fairness and equity should be part of the Guiding Principles.

In summary, the Policy and criteria created in the Evergreen Development Policy should not be counter to the General Plan Goals that encourage infill by being overly restrictive, and thereby prevent the ability of small and medium size properties from being developed. Furthermore, it should not over-burden small and medium sized properties with multiple outcomes from the Guiding Principles that are attainable only with larger sites. Compatibility with the surrounding single family neighborhoods should be the overriding consideration when developing infill parcels in Evergreen.



I ask that you look favorably upon these considerations.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles W. Davidson". The signature is fluid and somewhat stylized, with the first and last names being more prominent.

Charles W. Davidson

c. Laurel Prevetti
John Baty
Michael Mena